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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,678	11/29/2001	Takashi Hosoya	Q67410	1021

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EXAMINER

THOMPSON, KENNETH L

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,678

Applicant(s)

HOSOYA ET AL.

Examiner

Kenn Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Ouchi et al., U.S. 6,299,542.

Regarding claims 1-4, Ouchi et al. discloses in figures 1-6 a constant velocity joint for use with a propeller shaft (not shown at 145). Ouchi et al. discloses an outer race (141) having a spherical inner surface with a plurality of track grooves (108) defined therein. Ouchi et al. discloses each track groove having a groove bottom of longitudinal sectional shape representing a curve. Ouchi et al. discloses an inner race (102) having a spherical outer surface having a plurality of track grooves (107) defined therein in correspondence with the respective track grooves in the outer race. Ouchi et al. discloses the track groove in the inner race having a groove bottom of a longitudinal sectional shape of a curve. Ouchi et al. discloses a plurality of balls (104) interposed between the outer and inner races and rotatably accommodated between the mating track grooves in the outer and inner races. Ouchi et al. discloses a retainer (109b)

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having a plurality of pockets accommodating the balls. Ouchi et al. discloses the retainer having a spherical outer surface held in surface contact with the spherical inner surface of the outer race and a spherical inner surface held in surface contact with the spherical outer surface of the inner race (fig 6). Ouchi et al. discloses the track grooves in the outer race having a center of curvature (O_e) lying in an axial section of the outer race. Ouchi et al. discloses the track grooves in the inner race having an center of curvature lying on an axial section of the inner race (O_i). Ouchi et al. discloses the center of curvature of each track groove in the outer race and the center of curvature of the track groove in the inner race being offset an equal distance (h) fore and aft the angle center of the joint. Ouchi et al. discloses the spherical inner surface of the outer race and the track grooves in the outer race being defined by post hardening cut surfaces (col. 18, line 64 - 67).

As to claim 6, Ouchi et al. discloses in figure 13 eight track grooves (1b, 2b) in the inner and outer races.

As to claim 12, Ouchi et al. discloses in figure 19 track grooves in the outer race having an oval transverse sectional shape.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi et al. et al., U.S. 6,299,542 in view of Krude, U.S. 4,529,254

As to claim 5, Ouchi et al. discloses in figure 5 the outer race (1) having an inlet mouth (133) and a rear opening (opening at 108) opposite the inlet mouth. Ouchi et al. discloses the outer race having a fitting flange (117) formed therewith at a location radially outwardly of an outer periphery of the inlet mouth and a cylindrical mount (axial extension of 133,131) formed so as to protrude axially outwardly from the opening. Ouchi et al. discloses a propeller shaft (not shown at 145) extends through the rear opening and is engaged with the inner peripheral surface (101c) of the inner race. Ouchi et al. does not disclose the rear opening having a diameter smaller than the diameter of the inlet mouth. Krude teaches in figure 1 use of rear opening (opening of 2 at 11) having a diameter smaller than the diameter of the inlet mouth (20) to allow for the removal of the propeller shaft through the inlet mouth of the wheel assembly. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the inlet mouth and rear opening disclosed by Ouchi et al. to have the diameter of the inlet mouth to be larger than the rear opening to allow for the removal of the propeller shaft through the inlet mouth of the wheel assembly to enable quick replacement of the inner joint member and shaft.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi et al. et al., U.S. 6,299,542 in view of Yamamoto et al., U.S. 6,367,981

As to claims 7-9, Ouchi et al. et al. discloses the retainer (109b). Ouchi et al. et al. does not disclose the surface of the retainer has a surface treatment layer of solid lubricant that is a low temperature sulfurized layer. Yamamoto et al. teaches in figure 1 use of a retainer (4) having a surface treatment layer of solid lubricant that is a low temperature sulfurized layer (col. 2, lines 2-21; molybdenum disulfide) to enhance performance in areas of elevated temperature, vacuum, special atmosphere, extreme low temperature and irradiation environments. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the surface of the retainer disclosed by Ouchi et al. to have a surface treatment layer of solid lubricant that is a low temperature sulfurized layer; as taught Yamamoto et al. to enhance performance in areas of elevated temperature, vacuum, special atmosphere, extreme low temperature and irradiation environments. It is well known that a rolling bearing is liable to scatter lubricant or grease the can enter the external atmosphere, therefore in cases where a pure atmosphere is required no lubricants or grease can be used.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi et al. et al., U.S. 6,299,542 in view of Jacob et al., U.S. 5,580,313.

As to claim 10, Ouchi et al. discloses the track grooves (108,107) of the inner and outer races. Ouchi et al. does not disclose the corresponding ball cooperate to define radial gaps there between of less than 0.05 mm. Jacob et al. teaches use of the ball to cooperate with the inner and outer races to define radial gaps there between of less than 0.05 mm (col. 4, lines 56-67) to provide the functional play that is required for

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the functioning of the joint. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the ball discloses by Ouchi et al. to cooperate with the inner and outer races to define a gap there between of less than 0.05 mm as taught by Jacob et al. to provide the functional play that is required for the functioning of the joint. Moreover the optimization of proportions in a prior art device is a design consideration within the skill of the art. In re Reese, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

As to claim 11, Jacob et al teaches in figure 1 the pockets (10) in the retainer (11) and the corresponding ball (9) cooperate to define positive axial gaps (col. 5, lines 14-22).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi et al. et al., U.S. 6,299,542.

As to claim 13, Ouchi et al. discloses a spherical inner surface of the outer race. Ouchi et al. is silent as to whether the surface has a roughness of 0.8 or less, as stipulated in B0601 of the JIS standards. However it would have been obvious to one having ordinary skill in the art at the time of the invention to adhere to standard practice.

Allowable Subject Matter

Claims 14-20 are allowed

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The prior art of record does not disclose or suggest all the claimed subject matter including an undercoat of manganese phosphate between the surface of the retainer and the solid lubricant.

The prior art does not disclose the surface treatment layer formed on the inner and outer races is different than the surface treatment layer formed in the surface of the retainer.

Response to Arguments

Applicant's arguments filed 1 December 2003 have been fully considered but they are not persuasive.

Applicant argues that Ouchi et al. merely disclose surface hardening, and does not disclose nor suggest that any hardened surface is subsequently cut nor that any surface that is defined by a post-hardening cut surface. However, applicant admits that Ouchi et al. discloses surface hardening, the claim requires the surface to be defined by a post-hardening cut surface. The surface hardening of Ouchi et al. has the nature or basic qualities of the claimed surface. The recitation "post hardening cut" used to limit the surface requires subsequent actions to be performed and is not germane to the issue of the patentability of the surface itself.

Applicant argues that Ouchi et al. fails to state that pockets are defined by such a post-hardening cut surface. As stated above and in column 21, lines 41-44 of Ouchi et al. discloses a post-hardening cut surface on an inner surface of the pocket.

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Applicant argues that Ouchi et al. does not disclose the track grooves in the outer race having an oval transverse sectional shape. However Ouchi et al. discloses in figure 19 track grooves in the outer race having an oval transverse sectional shape in which areas of 425a and 426a represent the major diameter.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenn Thompson whose telephone number is 703 306-5760. The examiner can normally be reached on 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications and 703 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-2168.

KT
March 30, 2004


Lynne H. Browne
Supervisory Patent Examiner
Group 3600